

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Waiver by)	
)	
Siskiyou County Library)	File No. SLD-325514
Yreka, California)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Associations, Inc.)	

ORDER

Adopted: February 6, 2003

Released: February 7, 2003

By the Telecommunications Access Policy Division, Wireline competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a request filed by Siskiyou County Library, seeking a waiver of the Commission's rules governing the schools and libraries universal service support mechanism.¹ Specifically, Siskiyou requests waiver of the filing deadline for Funding Year 2002 because of a delay in gathering data from a service provider.² For the reasons set forth below, we deny Siskiyou's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form

¹ Letter from Pat Harper and Kathy Fueston, Siskiyou County Library, to Federal Communications Commission, filed April 26, 2002 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Waiver Request. Previously, this funding period would be referred to as Funding Year 5. Funding periods are now described by the year in which the funding period starts. Thus the funding period which began on July 1, 2002 and ends on June 30, 2003, previously would have been known as Funding Year 5, and is now called Funding Year 2002. The funding period which begins on July 1, 2003 and ends on June 30, 2004 is now known as Funding Year 2003, and so on.

³ 47 C.F.R. §§ 54.501-54.503.

470.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must submit a completed FCC Form 471 application to the Administrator.⁵ The Commission's rules require that the applicant file the FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁶ The last day of the filing window for Funding Year 2002 was January 17, 2002.

3. Siskiyou concedes that it filed its FCC Form 471 after the filing window had closed, but attributes the delay to incorrect data from its service provider.* Siskiyou states that in preparing its FCC Form 471, it questioned two line items for so-called, "meet point charges," on an invoice from the provider Pacific Bell.⁹ Siskiyou notes that it believed such charges were paid through two local telephone companies. Siskiyou claims that it brought the questionable items to the attention of Pacific Bell, and began a series of conversations in which the provider insisted the charges were correct. Siskiyou claims that it eventually reached someone in the company who understood the issue and agreed to revise those charges from the spreadsheet. However, the process delayed submission of the application.¹⁰ The entire application was filed on January 23, 2002.¹¹ Siskiyou requests a waiver of the Funding Year 2002 waiver window deadline.

4. A waiver can be granted only if waiving the deadline is supported by a showing of good cause.¹² A deviation from a general rule is not permitted unless special circumstances warrant it and the deviation would better serve the public interest than strict adherence to the general rule.¹³ We have traditionally held applicants to a high standard for waivers, noting that ultimately it is the applicant who is ultimately responsible for the timely submission of its application.¹⁴

5. In this case, Siskiyou had a responsibility to request funding only for proper charges. We appreciate Siskiyou's efforts at being thorough but note that all applicants are

⁴ 47 C.F.R. § 54.504(b).

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. §§ 54.504(c), 54.507(g).

⁷ SLD website, What's New Archives (January 10, 2002).

⁸ <http://www.sl.universalservice.org/whatsnew/012002.asp#011002b>.

⁹ Waiver Request. See also FCC Form 471, Siskiyou County Library, filed January 23, 2002 (Siskiyou Form 471).

¹⁰ Waiver Request (attaching copy of the invoice in question with two line items totaling more than \$12,000).

¹¹ Waiver Request.

¹² Siskiyou Form 471 (the electronic portion was submitted on January 23, 2002; the envelope containing the Block 6 Certifications and Signature pages and Item 21 Attachment was postmarked January 28, 2002).

¹³ See 47 C.F.R. § 1.3.

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁵ See *Request for Waiver by Tuxedo Park School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Billed Entity No. 11350, CC Docket Nos. 96-45 and 97-21, Order, DA 02-88 (Com. Car. Bur. rel. January 14, 2002) (denying waiver request in case involving internal administrative problems and delays obtaining Service Provider Identification Numbers).

required *to* review the material they submit and to make sure it is accurate and filed within the tiling window.¹⁵ We note that in the competitive process, Siskiyou should have been able to turn to other bidders for better service if its choice of provider was not satisfactory. After reviewing the material before us, we conclude that Siskiyou has failed *to* demonstrate special circumstances upon which its Waiver Request can be granted.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Siskiyou Count Library, Yreka, California, on April 26, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief: Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁵ *Request for Review by Pike County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, SLD-135522, CC Docker Nos. 96-45 and 97-21, Order, 16 FCC Rcd 5461 (Com. Car. Bur. 2001) ("In light of the thousands of applications that SLD reviews and processes each funding year, administrative necessity requires that each applicant be responsible for providing complete and accurate information in its FCC Form 471 upon which its ultimate funding is dependent.")